IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7112 OF 2005

Shri Baburao Daulat Patil ... Petitioner

V/s

Shri Sharad Dagaji Deshmukh & ors. ... Respondents

Mr. Patil i/by P.N. Joshi for the petitioner.

Mr. N.R. Bubna for the respondent No.1.

CORAM: S.U. KAMDAR, J.

DATED: 22ND NOV., 2005

P.C.:

1. Rule, returnable forthwith.

2. The petitioner has challenged the order dated 30.8.2005 refusing to grant the amendment application under Order 6 Rule 17 of the C.P.C. by the Trial Court. The application only seeks to add para 7A of the plaint. It has been claimed that the amendment is of a formal nature stating that even if the decree is passed, the petitioner is still entitled to the benefits of provisions of The Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. The said one para

amendment has been rejected by the Trial Court against which the present writ petition is filed. The learned counsel for the respondent submits that the said amendment should not be granted as he is trying to wipe out an admission which has been made by him in the cross-examination. I do not think that the amendment even if granted in para 7-A would in any way amount to wipe out any admission. The next contention is that there is delay in filing the application for amendment. I do not find any merit in either of the submission. It is now well settled that Court is empowered to permit the amendment of the proceedings at any stage including the appellate stage of the proceedings. In that light of the matter, the impugned order dated 30.8.2005 is set aside. The application Exh.62 in Civil Suit No. 11 of 2000 is granted and made absolute. Amendment to be carried out within a period of two weeks from today in the Trial Court by the petitioner and the Trial Court shall proceed further with proceedings in accordance with law. The petition stands disposed of accordingly with no order as to costs.

.....